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INFO RUCNAFG/AFGHANISTAN COLLECTIVE PRIORITY  
RHEHAAA/NSC WASHDC PRIORITY  
RUEAIIA/CIA WASHINGTON DC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 04 KABUL 000336

SIPDIS

E.O. 12958: DECL: 01/25/2020

TAGS: KDEM PGOV AF

SUBJECT: 2010 ELECTIONS: ESTABLISHING "CONDITIONALITY" FOR  
U.S. SUPPORT

REF: KABUL 245

Classified By: Polcouns Annie Pforzheimer, Reason 1.4 (b) and (d)

¶1. (C) Summary: The Independent Election Commission's (IEC) postponement of Afghanistan's 2010 Parliamentary elections until September 18 (Reftel) provides the GIRoA more time to implement electoral reforms. While all donors may not yet agree on which reforms to promote, or on how best to press the Government of the Islamic Republic of Afghanistan (GIRoA) to enact them, they do agree on their importance. We believe that threatening to withhold international financing based on the imposition of "red line" conditions would likely engender a negative, and intransigent GIRoA reaction. Hence we should focus on developing agreed reform benchmarks that will allow us to fund the elections. We also present a description of the status quo (no reforms) and another scenario -- which could merit withholding funding -- of a deterioration in Afghanistan's electoral process. This "blue line" approach will sustain the conditionality yet permit an atmosphere of cooperation that may mitigate President Karzai's distrust of the international community. We judge that we can best accomplish our objectives by working with the Ministry of Finance, allies in Parliament and engagement with an possible Afghan "Lessons Learned" elections group. End Summary.

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Taking a "Blue Line" Approach  
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¶2. (SBU) Now that IEC has postponed Afghanistan's 2010 Parliamentary elections until September 18, GIRoA has given itself more time to adopt and implement electoral reforms. We have consulted with election experts, the international donor community, and the UN in arriving at a generally accepted position regarding necessary electoral reforms that GIRoA should implement for the 2010 elections. The UK and UNAMA agree in broad terms with us though we differ somewhat regarding implementation methods and means to influence GIRoA decision. We have broached the subject of "minimum conditions" in meetings with the Canadians, Swedish, Norwegians, Dutch, Germans, EUSR, and the EC. These donors are awaiting instruction from their capitals. They report they will face difficulty in reprogramming funds committed in 2008 for both the 2009 Presidential and 2010 Parliamentary election cycles.

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The Best Case Scenario  
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¶3. (SBU) The reforms donors believe should be achieved to "facilitate" international funding are:

--President passes by decree the IEC Structural Law and appoints a new Board of Commissioners (who would be approved by Parliament);

--Appointment of a full-time international advisor to the IEC and public access to IEC decisions;

--Tougher IEC regulations, including on recruitment, counting, and tally procedures;

--Timely (90 days prior to polling date) identification and set-up of polling centers, plus a firm cut-off date to determine which centers will be opened;

--Dismissal of IEC staff implicated in fraud, in accordance with the law;

--Referrals for prosecutions made to the Attorney General's office;

--Internal blacklist of offending election officials produced, shared with UNAMA, and strictly adhered to. Procedures will be publicized;

--SRSG appoints three experienced, Afghan-credible international commissioners to the ECC as soon as possible; Clarification of roles of IEC, Demobilization and Reintegration Commission (DRC) and ECC in fraud oversight, candidate registration and vetting, and rigorous implementation of current vetting procedures;

--Significant acceleration of observer accreditation; and,

--Proper candidate vetting.

Some of the key electoral improvements we seek are described

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in more detail below:

Replace Known Corrupt Actors at the IEC

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**¶4.** (C) Despite its name, the IEC is not independent. Its seven-member governing Commission appears to work very closely with the Karzai government. The IEC has repeatedly downplayed, even flouted, attempts by the international community to mitigate fraud or to force the investigation and acknowledgment of fraud. New IEC leadership at Commission and Secretariat levels, as well as in the crucial IT Department, should be one blue line meriting donor support. Specifically. the IEC Commission Chair and Deputy Chair, and possibly the senior Secretariat leadership need early replacement. Their replacements should be vetted with Parliament, and at least informally with the international community, as Parliament and foreign governments hold the purse strings for the election. Another IEC official who should be replaced, if not prosecuted, is IEC IT Chief Ajmal Amin. Amin has been missing from work for a month, ever since a suspicious fire in his section and 15 laptops disappeared with sensitive election-related data on them was detected. He has been the suspected source of numerous unexplained changes in the data after it arrived at the Tally Center at IEC headquarters, including the changes to Nangarhar Provincial Council tallies following a recount. These changes led to unrest in Nangarhar. Amin appears to have used his position to support Karzai government allies and should not be allowed to return to the IEC to work in the event he reappears.

**¶5.** (C) Provincial Electoral Officials (PEO) implicated in either fraud or severe incompetence which allowed fraud on the part of other actors should be suspended, not moved to another Province, as has been attempted in the past. Following the audit of the Presidential election, a key IEC technical official lobbied successfully for the suspension of five PEOs and the swapping of another six connected with significant fraud. Trusted IEC contacts and PRT representatives have confirmed that in the weeks following the elections, Chief Electoral Officer Daoud Najafi recalled

them all to their original provinces and retracted all suspensions (septel). Given this history, we should insist on a public announcement of the suspension of officials against whom sufficient evidence should be available. On January 23, President Karzai signed an order suspending the PEOs from Ghazni, Paktika, Nangarhar, and Kandahar. The IEC should also suspend the remaining PEOs from the original list: Ghor, Nuristan, Kabul, Logar, Kunar, Baghlan, and Kunduz.

Make Observation Easier

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¶ 16. (C) A powerful tool against electoral fraud is the presence of observers and candidate agents. Partly due to incompetence, partly due to the poor planning of international advisors, and partly due to deliberately obstructionist IEC intentions, candidate agents and observers had a very difficult time obtaining their accreditation in advance of the 2009 Presidential election. Some received their credentials only the day before the election, giving them little time to travel to their designated observation point. We will make clear to the GIRoA that delays in accreditation are unacceptable. The delivery of credentials should occur no less than one week prior to election day.

Keep International Observers in the ECC

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¶ 17. (C) Under the Electoral Law as currently written, UNAMA SRSG Kai Eide must appoint three international electoral experts to join the Electoral Complaints Commission (ECC), which he plans to do immediately after the London Conference.

We have heard from President Karzai and from the IEC that Karzai plans to eliminate these international positions from the ECC and replace them, through Decree (during Parliament's recess) with three Afghans - one each chosen by the upper house, lower house, and the Presidency. This has been seen by many as Karzai's attempt to eliminate the ECC's oversight role, and is opposed by many Afghans and donors.

Declare Polling Centers Earlier

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¶ 18. (C) The total number of polling centers is scheduled to increase in the Parliamentary elections. A senior IEC planning official estimates that 30 percent of Afghanistan's districts, all in Pashtun areas, cannot be secured for

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materials delivery, let alone on election day, without ISAF assistance. For the safety of Afghan civilians, as well as for the safety of observers and troops, polling centers should be declared 90 days ahead of the polling date in order to qualify for ISAF outer-ring security at that location.

Robust Candidate Vetting

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¶ 19. (C) The IEC and the Disarmament and Reintegration Commission (DRC) have the legal authority to bar bad actors from appearing on the ballot but the laws and information-sharing systems have traditionally been weak. We need to convince the GIRoA that the legitimacy of an election in part depends on independent vetting and that a healthy Parliament will help Afghanistan progress and serve as a check to the Executive. Preventing criminals and warlords from being candidates for Parliament will also decrease the likelihood of candidates bribing officials to commit fraud.

The Status Quo Scenario

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¶ 10. (SBU) If no reforms are enacted, the status quo features the following:

--The IEC Commission and Secretariat remain the same; the IEC does not allow international observers into its midst or make open decisions;

--IEC suspends four PEOs and excludes 6,000 temporary poll workers (out of over 100,000) from being re-hired, but no other staff are dismissed or referred for prosecution;

--Dates for polling station identification slip past 90 days before election day;

--The SRSG appoints three international ECC commissioners but the powers of the ECC are not clarified with respect to the IEC and fraud oversight, and vetting;

--Vetting is pro forma with weak support for Disarmament and Reintegration Commission and IEC procedures, and weak legislative framework;

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The Worst Case Scenario  
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¶11. (C) Rather than reforms or the status quo, a deterioration in Afghanistan's electoral process could also occur, possibly in the short term, and could lead to an reassessment of U.S. funding:

--President Karzai changes the Electoral Law by Decree to remove internationals from the ECC and replace them with Afghans, including one appointed by the President and two appointed by Parliament;

--The IEC Commission remains in place and new commissioners are appointed by the President without reference to Parliament;

--The polling sites are not regulated and a deadline is not set for their establishment; and,

--No IEC staff members are dismissed and the four PEOs who were suspended on January 23 are re-hired.

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Best Tactics  
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¶12. (C) Given President Karzai's deep distrust of the international community, it has become increasingly difficult to move him without significant leverage, as demonstrated by the heavy lifting required to secure his public concession to a second round in the 2009 presidential elections. Therefore, we need to impose an element of conditionality to get him to make some difficult choices. For presentational purposes, rather than imposing negative "red line" conditions on the GIRoA to obtain international funding, which would likely engender an intransigent reaction, we propose focusing on the reforms that we wish positively to support. Parliament will be a useful ally in this effort, since they control some funding and have made recent demands for IEC reform, and the Palace may create a "Lessons Learned" group that is intended to serve as a vehicle for suggesting future reforms. We would make our case as well to the Ministry of

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Finance and other officials who truly understand the state of Afghanistan's finances and the need for improvements in democratic procedures, and who have been able in the past to bring Karzai around.

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